

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 1-7 and 9-15 are presently active in this case, claims 1, 9 and 15 amended by way of the present amendment.

In the outstanding Office Action, Claims 1, 9 and 15 were objected to for informalities; Claims 1-7 and 9-15 were rejected under 35 U.S.C. 112, first and second paragraphs; Claim 9 was rejected under 35 U.S.C. 102(b) as being anticipated by 5,266,119 to Taniguchi et al.; Claims 1-7 and 9-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 2004/0035364 to Tomoyoshi et al., in view of U.S. 5,266,119 to Taniguchi et al.; Claims 1-2 and 9-10 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 5,980,687 to Koshimizu, in view of Taniguchi; Claims 3-7 and 11-15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Koshimizu in view of Taniguchi et al., and further in view of U.S. 5,647,912 to Kaminishizono et al. or U.S. 7,147,749 to Nishimoto et al. or U.S. 2004/0035364 to Tomoyoshi et al.

With respect to the Claim Objections

First, Applicant wishes to thank the Examiner, Alejandro Mulero, for the September 18, 2008 and February 13, 2009 phone discussion in which the Examiner indicated that the outstanding Office Action in this case is a Non-Final Office Action with regard to the objection to the claims, and should be treated as such. However, since no Interview Summary was mailed to confirm in writing that the Office Action is non-final. As a cautionary measure, Applicants are filing herewith a Notice of Appeal.

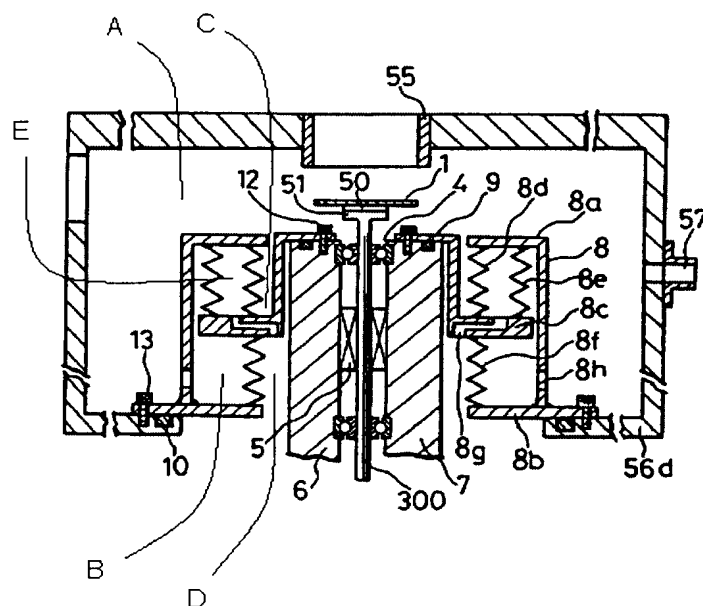
With regard to the rejections under 35 U.S.C. § 112, first and second paragraphs, amended Claims 1 and 9 read that the entire electrode supporting member (or the entire structure supporting member) is installed in the vacuum chamber the inner space of which is

set under a predetermined vacuum level. The amendment is supported by page 14, lines 2-7 of Applicant's specification as originally filed.

Referring to Fig. 1, what supports the second electrode 13 and connects it to the ring member 18a is the upper electrode supporting member 19. When this is compared to the written limitation in Claim 1, the upper electrode supporting member 19 is an example of the claimed electrode supporting member. Turning to Fig. 1, since the upper electrode supporting member 19 is entirely installed in the vacuum chamber 11 and the vacuum chamber 11 is exhausted by the exhaust port (not shown) as stated in page 14, lines 5~7, it is believed to be supported by the specification that the entire electrode supporting member is installed in the vacuum chamber the inner space of which is set under the predetermined vacuum level, as amended. The same reasoning is applied to the structure supporting member of claim 9. In this regard, Applicant notes that the page 14, line 2-7 statement that the vacuum chamber is exhausted "via the exhaust ring 21" does not mean that only the region within the exhaust ring is under vacuum pressure. The figures and written specification make clear that the inner space of the chamber 11 is under vacuum pressure.

Turning now to the prior art recitation based on Taniguchi, the Response to Arguments portion of the Office Action rejected Applicant's assertion that the space between the supporting member 7 and bellows 8f is at atmospheric pressure. Further, the Office Action asserts that reference numerals 51 and 7 correspond to the electrode supporting member of claim 1. This conclusion is refuted with the below drawing.

FIG. 2



As seen, the space inside the vacuum chamber is the space A generally, and the space between the supporting member 7 and bellows 8f, indicated by the Office Action, is the space D. Since the space D is placed outside the vacuum chamber, it is at atmospheric pressure, not at the vacuum pressure.

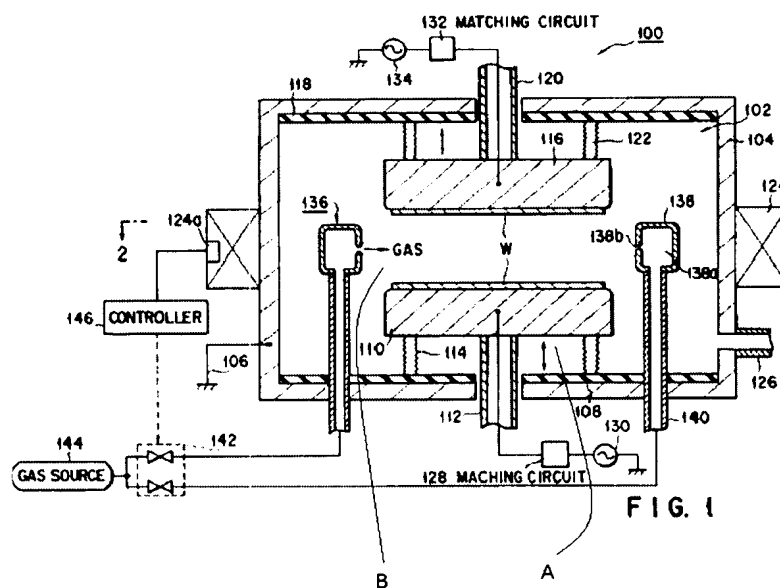
Further, the Office Action suggests col. 6, lines 41~44 and col. 7, lines 4~11 of Taniguchi support the above assertion. However, these parts of Taniguchi disclose no more than that the spaces D and E are connected by way of the space having reference numeral 8g. Since reference numeral 8g is surrounded by reference numeral 8a which comparts the vacuum chamber, the space E inside reference numeral 8g is also not of vacuum pressure. Therefore, the above parts of Taniguchi do not help to support the assertions and the space D is not at vacuum pressure.

That is, the parts marked with reference numerals 51 and 7 are placed in the space A at vacuum pressure and the space D at atmospheric pressure, respectively. Therefore,

Taniguchi does not disclose the features of Claims 1 and 9, i.e. that the entire electrode (or structure) supporting member is installed in the vacuum chamber whose inner space is set under a predetermined vacuum level.

The Office Action also asserts that since the second electrode 2 or 12 of Tomoyoshi moves vertically, the electrode (or structure) supporting member is installed in vacuum. However, since the vertical movement in Tomoyoshi is caused by the drive mechanism 6B, and transferred through the bottom surface 1A and the chamber 1 to the upper electrode 3, what moves vertically is not the second electrode 2 but the upper electrode 3. The second electrode 2 is connected to the drive mechanism 6B through the bellows 7, and accordingly, it cannot be driven vertically. Conclusively, the bottom surface 1A and the chamber 1 of Tomoyoshi correspond to the electrode (or structure) supporting member, and they are not installed in vacuum.

The Office Action also does not agree with Applicant's response that the susceptor 110 or 116 of Kshimizu corresponds to the electrode (or structure) supporting member and is not installed in vacuum. This position is refuted by the following drawing.



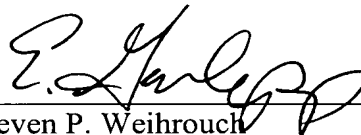
The above drawing shows that while the space B is of vacuum, the space A is separated from the vacuum by the bellows 114 and leads to the outside atmosphere through the gap between the movable shaft 112 and the process container 104. Therefore, the entire susceptor 110 or 116 corresponding to the electrode (or electrode) supporting member is not installed in the vacuum, rather installed in the vacuum and the atmosphere.

Lastly, Kaminishizono and Nishimoto are further suggested by the Office Action and it is asserted that one cannot show nonobviousness by attacking references individually. But even though the above two references are combined with the former references, the above-mentioned distinguishable features of claims 1 and 9 are not disclosed or suggested by these secondary references.

Consequently, in view of the present amendment, no further issues are believed to be outstanding in the present application and the present application is believed to be in condition for allowance. Therefore, an early and favorable action is respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.



Steven P. Weihrouck  
Attorney of Record  
Registration No. 32,829

Customer Number  
**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)

Edwin D. Garlepp  
Registration No. 45,330